



POLICE DEPARTMENT

February 24, 2010

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Tyrone Riggan
Tax Registry No. 933252
Manhattan Court Section
Disciplinary Case No. 84743/08

The above-named member of the Department appeared before me on
December 16, 2009, charged with the following:

1. Said Police Officer Tyrone Riggan, while assigned to the 50th Precinct, on or about October 8, 2008, at about 1330 hours, while off-duty, in the vicinity of J&S Recovery, a New York City Marshal's towing facility, located at 1508 Boone Avenue, Bronx County, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer, having been requested repeatedly to move [REDACTED] vehicle that was blocking a driveway, wrongfully did refuse to do so.

P.G. 203 – 10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED
CONDUCT GENERAL REGULATIONS

2. Said Police Officer Tyrone Riggan, while assigned to the 50th Precinct, on or about October 8, 2008, at about 1330 hours, while off-duty, in the vicinity of J&S Recovery, a New York City Marshal's towing facility, located at 1508 Boone Avenue, Bronx County, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer, without identifying himself as a member of the Department, wrongfully did lift his shirt and display a firearm in his waistband to another individual, identify known to the Department.

P.G. 203 – 10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED
CONDUCT GENERAL REGULATION

3. Said Police Officer Tyrone Riggan, while assigned to the 50th Precinct, on or about October 8, 2008, at about 1330 hours, while off-duty, in the vicinity of J&S Recovery, a New York City Marshal's towing facility, located at 1508 Boone Avenue, Bronx County, did engage in conduct prejudicial to the good order, efficiency, or

discipline of the Department, in that said Police Officer, having been directed by an identified off-duty Sergeant, assigned to the New York State Courts, with his weapon drawn to place his hands on a nearby car, said Police Officer wrongfully did fail and neglect to comply with said direction.

P.G. 203 – 10, Page 1, Paragraph 5 PUBLIC CONTACT PROHIBITED
CONDUCT GENERAL REGULATIONS

4. Said Police Officer Tyrone Riggan, while assigned to the 50th Precinct, on or about October 8, 2008, at about 1330 hours, while off-duty, in the vicinity of J&S Recovery, a New York City Marshal's towing facility, located at 1508 Boone Avenue, Bronx County, having been involved in an off-duty unusual police occurrence, said Police Officer did fail and neglect to remain at the scene of the incident, and did fail and neglect to request the response of the patrol supervisor, precinct of occurrence, as required.

P.G. 212 – 32, Page 1, Paragraphs 1 & 2 – OFF DUTY INCIDENTS
INVOLVING UNIFORMED
MEMBERS OF THE SERVICE
COMMAND OPERATIONS

5. Said Police Officer Tyrone Riggan, while assigned to the 50th Precinct, on or about October 8, 2008, at about 1330 hours, while off-duty, in the vicinity of J&S Recovery, a New York City Marshal's towing facility, located at 1508 Boone Avenue, Bronx County, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that, having been involved in an off-duty unusual police occurrence resulting in the response of uniformed members of the service, identities known to the Department, impeded the investigation of said occurrence, by refusing to tell said uniformed members what had transpired, telling said uniformed members to "mark the job 90-X," and saying, "Do your job. I guess there's going to be a war between the 50 and the 42."

P.G. 203 10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED
CONDUCT GENERAL REGULATIONS

The Department was represented by David Green, Esq., Department Advocate's Office, and the Respondent was represented by John Tynan, Esq.

The Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent is found Not Guilty of Specification No. 1. The Respondent is found Guilty of Specification Nos. 2 through 5.

SUMMARY OF EVIDENCE PRESENTED

Introduction

It is not disputed that on October 8, 2008, at about 1:30 p.m., the Respondent, who was assigned to the 50 Precinct but who was off duty, drove [REDACTED] [REDACTED] to J&S Recovery (J&S), 1508 Boone Avenue, the Bronx, which is located within the confines of the 42 Precinct, so that [REDACTED] could pick up her Honda [REDACTED] a). [REDACTED]'s Honda was to be released to her that afternoon by J&S which is a New York City Marshal's towing facility.

The Department's Case

The Department called Ricardo Guzman, Larry Esteves, Peter Murray and Sergeant Anthony Danclar as witnesses.

Ricardo Guzman

Ricardo Guzman, who is 48 years old and is employed as a mechanic at J&S, testified that at the direction of his boss, he releases vehicles that have been impounded at J&S. He recalled that on October 8, 2008, at about 1:30 p.m., his boss instructed him to release a Honda Pilot SUV to "a lady" who was accompanied by a man [Guzman was unable to positively identify the Respondent in the Trial Room as this man]. Guzman

drove the Honda out of the vehicle storage area which is located at 1508 Boone Avenue. He drove it to the end of J&S's driveway and parked it next to J&S's "hi-lo" forklift. The woman looked at the rear bumper on her Honda and told Guzman that her bumper had been damaged. The woman walked over to the office to file a damage complaint.

While she was doing this, Guzman's boss Larry Esteves called Guzman on his Nextel hand held phone and told him, "Get out the hi-lo." Since the Honda was blocking the "hi-lo," Guzman asked the man, "Please can you move the car?" Guzman recalled that "three or four times" he asked the man, "Can you do me a favor and move the car?" Each time he asked, the man answered, "No." Guzman called Esteves back and told him, "We got problems over here. The man won't move the car." Esteves called Guzman back and again told him that he needed the forklift. Guzman again asked the man, "Please can you move the car?" Since the man did not appear to be listening to him, Guzman told the man, "I am going to call my boss or I am going to call the police." The man then lifted his shirt or jacket "a little bit" with his right hand and for "a little second." Guzman saw a gun in the man's waist area. Guzman told the man, "I'm going to call my boss." The man said nothing. Guzman called Esteves on his Nextel phone and told him, "Larry, I am calling you because the guy has a gun." When Esteves arrived, Guzman went back to work and did not see what happened after that. The man never told Guzman that he was a police officer.

On cross-examination, Guzman recalled that he had given the woman back her car keys by leaving the keys in the Honda's ignition. Guzman confirmed that each time he asked the man, "Please can you move the car?" the only thing the man said to Guzman

was "No." Guzman also confirmed that when he saw the gun the man was not touching the gun and that he never touched the gun.

Larry Esteves

Larry Esteves, the manager at J&S, recalled that on October 8, 2008, between 1:30 p.m. and 2:00 p.m., he was inside J&S's office at 1544 Boone Avenue chatting with Court Officer Peter Murray, who worked at J&S when he was off duty, when he received a Nextel call from Guzman, who he knew was at the vehicle yard at 1508 Boone Avenue. Guzman told him that a man there was upset about his car being damaged and that he had a gun. Esteves turned to Murray and told him, "I need your help with something. Ricardo says a guy has a gun and I need you to come with me." Together they walked the short distance from 1544 Boone Avenue to 1508 Boone Avenue.

When they arrived there, Esteves saw a man whom he identified in the Trial Room as the Respondent. The Respondent said, "You damaged my fucking bumper." Esteves told the Respondent, "My guy says you have a gun." The Respondent told him, "You can't fucking prove that." As Esteves called 911 on his Nextel phone, he heard Murray ask the Respondent, "Do you have a gun?" The Respondent repeated, "You can't fucking prove that." Esteves testified that Murray "pulled his gun out." A woman then approached them. She identified herself as the Respondent's "wife." She stated, "I'm not moving the fucking car. If I move it you're going to say that the damage didn't happen on the premises."

The Respondent started to walk down the block. Esteves saw Murray start to follow him. The woman screamed out, "He's a cop!" Esteves heard Murray ask the

Respondent, "Why didn't you tell me?" The Respondent replied, "I don't have to tell you a fucking thing." Esteves recalled that the Respondent got into a car that was on the street and drove away.

A few moments later, two uniformed officers from the 42 Precinct arrived in a marked RMP. As Esteves was explaining to one of the officers what had occurred, the other officer told the woman, "We need to get him back here." The woman made a cell phone call and the Respondent returned less than two minutes later. The two officers started speaking to the Respondent. Esteves heard one the officers tell the Respondent, "I can't believe you just said that."

On cross-examination, Esteves testified that he did not call 911 from his office because he wanted to get over to the yard as soon as possible to find out what was going on because Guzman had sounded very concerned about the gun. Esteves testified that he was not surprised that Murray was armed even though he was off duty. Esteves asserted that the Respondent spoke loudly and cursed and that he took a step towards Murray. Esteves confirmed that the Respondent did not verbally threaten Murray, or run at Murray, or lunge at Murray before Murray pulled out his gun. Esteves testified that Murray first took out his Court Officer shield and then pulled his gun out. Murray always had his gun pointed at the ground. Esteves recalled that the woman screamed at the Respondent to calm down because he was shouting.

Esteves confirmed that under the vehicle release procedure in place at J&S, Guzman was supposed to have driven the Honda off J&S's premises onto the street. Esteves admitted that the spot where the Honda was parked was partially on the premises.

Peter Murray

Peter Murray, who has been employed as a New York State Court Officer for 16 years and has held the rank of Sergeant since 1998, testified that on October 8, 2008, he was scheduled to start his court shift at 7:00 p.m. As of that date, Murray had been employed by J&S for two years in a non-security capacity related to the vehicle auctions that are conducted there. Shortly before 2:00 p.m. that day, he was inside J&S's office at 1544 Boone Avenue when Esteves received a call from Guzman, who was across the street at the yard. Esteves told Murray, "We have a problem. A customer over there showed a firearm to Ricardo." Murray asked Esteves if he had called 911 and, if not, to call 911. Murray was not certain whether Esteves called 911. They walked the short distance from 1544 Boone Avenue to 1508 Boone Avenue in 60 seconds.

When they arrived there, Murray saw a vehicle that was parked that was partially on the premises and partially on the sidewalk. Murray saw a man near the vehicle, whom he identified in the Trial Room as the Respondent. When Murray asked the Respondent what the problem was and why he had refused to move the vehicle, he said that he had refused because it was damaged.

Murray asked the Respondent whether he had a firearm on him. The Respondent took a few steps toward Murray and told him, "Never mind what I have." The Respondent then pulled up his shirt with his right hand to show Murray that he had a holstered firearm on his waist area. The Respondent did not tell Murray that he was a police officer. Murray took out his shield and displayed it and he then pulled out his firearm. Since the Respondent had taken his hand off the firearm and had dropped his shirt back down over his waist area, Murray held his firearm at his side pointed at the

ground because he “did not feel threatened anymore.” He then “gave a police challenge” in the manner that court officers have been trained to do. He told the Respondent, “Police, put your fucking hands on the car.” The Respondent did not comply with this order. He backed up a few steps but said nothing other than “I can’t believe you pulled your shit out on me,” which he repeated several times.

The Respondent turned and started to walk toward the street. Murray started to follow him to see if he would try to “ditch” his firearm. The Respondent got into a car that was parked on the street and drove away.

Uniformed officers from the 42 Precinct responded. One officer told the woman who had come to the scene, “Call him and tell him to get back here.” The woman made a cell phone call and the Respondent came back. He walked up to Murray and pulled up his shirt to display a Department shield. Murray expressed surprise that he was a police officer. Murray asked the woman who had called the Respondent, “Why did he do that to me?” Murray heard the Respondent tell the responding police officers, “Mark it 90X and get out of my face.”

Sergeant Anthony Danclar

Sergeant Anthony Danclar, who is presently assigned to the 23 Precinct, recalled that on October 8, 2008, he was a police officer, on duty, assigned to patrol duties at the 42 Precinct partnered by Police Officer Ruiz, when they responded to a radio call regarding a dispute over a parking spot at 1508 Boone Avenue.

Upon arriving at 1508 Boone Avenue, a woman approached them and stated that her car had been damaged. A man who identified himself as “Larry” approached them

and asked, "Did she tell you that a man displayed a weapon on her behalf?" Since the radio transmission had made no mention of a weapon, they demanded that the woman tell them who had a weapon but she was reluctant to do so.

The Respondent soon appeared at the scene but he did not immediately identify himself to the officers as a police officer. Ruiz told Danclar, "I recognize this guy as a cop. I saw him a few times at CRV."¹ Danclar asked the Respondent what had happened. The Respondent told him, "Nothing happened. Mark the job 90 X-ray and go 98," which Danclar explained meant transmit a disposition of unfounded and go back on patrol. When Danclar told him that he could not do that, the Respondent stated, "Well, there's going to be a problem between the 50 and the 42." Danclar recalled that he then asked the Respondent, "Are you sure you want to go this route?"

Danclar requested that the patrol supervisor respond to the scene. After the patrol supervisor spoke to the Respondent, the patrol supervisor told Danclar, "He's a cop."

On cross-examination, Danclar testified that Officer Ruiz was not his steady partner and that he had never responded to 1508 Boone Avenue previously. Danclar asserted that the Respondent had been loud and disrespectful to him. A Court Officer named Murray, who had his shield around his neck, told Danclar that he had displayed his weapon.

The Respondent's Case

The Respondent testified in his own behalf.

¹ Critical Response Vehicle, a multi-precinct Counterterrorism deployment detail.

The Respondent

The Respondent testified that when he and [REDACTED] arrived at 1508 Boone Avenue, he was in possession of his Smith & Wesson firearm which was on his right hip inside his holster. The Respondent was wearing a sweater which covered his holstered firearm.

When Guzman asked the Respondent to move the Honda, the Respondent told him "no" because [REDACTED] had alleged that J&S had damaged the rear bumper on her Honda and the Respondent did not want J&S to be able to falsely claim that he had damaged the rear bumper when he moved the Honda. The Respondent testified that Guzman told him, "Move the vehicle right now or else." The Respondent did not identify himself as a police officer to Guzman. The Respondent concluded that Guzman must have seen a bulge at his waist because he never lifted his sweater up or displayed his firearm to Guzman. Guzman called somebody on his Nextel phone and said, "Somebody here refuses to move his vehicle and I think he might have a gun."

Shortly after this call, the Respondent heard a voice behind him say, "Motherfucker get on the ground." When the Respondent turned around he saw a man pointing a gun at him. The Respondent asked him, "What are you doing?" The man was displaying a gold shield but the Respondent could see that the shield was not a New York City Police Department shield. The Respondent walked away in an attempt to defuse the situation. He never left the area. When the officers from the 42 Precinct arrived, he tried to tell Danclar that the court officer had menaced him but Danclar told him that he did not want to hear that and kept rudely interrupting him, so he told Danclar that he might as well "mark the job 90 X-ray."

On cross-examination, the Respondent testified that he did not request that the patrol supervisor precinct of occurrence respond to the scene because there was no need to do this. When Danclar became angry at him for telling him that he should "mark the job 90 X-ray," he told Danclar, "Don't make this a 50 42 issue" and he also told Danclar, "I guess there's going to be a war between the 50 and the 42." The Respondent testified that he meant that "if the 42 needs a favor from the 50, I guess it would be a problem" because "we wouldn't directly help them out...if the 42 come to the 50 and ask the 50 for paperwork, we would tell them we don't have any paperwork, or if we're working like CRV, if they need us to cover them for lunch, we tell them we can't do it."

When the Respondent was asked what he thought might happen after Guzman called someone on his Nextel phone and said, "Somebody here refuses to move his vehicle and I think he might have a gun," the Respondent answered that he had no idea what would happen.

FINDINGS & ANALYSIS

Specification No. 1

The Respondent is charged with wrongfully refusing Guzman's repeated requests that he move [REDACTED] vehicle which was blocking a driveway. I find the Respondent not guilty because his refusals were not wrongful and did not constitute misconduct.

It is not disputed that the Respondent was present at J&S only because he had driven [REDACTED] there to pick up her Honda and that the Respondent never got into the Honda and never told anyone that it was his car. It is also undisputed that it was J&S employee Guzman who drove the Honda out of storage to the end of the J&S

driveway where he parked it next to the J&S forklift, thereby blocking access to it. It is further undisputed that [REDACTED] told Guzman that the rear bumper on her Honda had been damaged by J&S and that she was not near her Honda when Guzman asked the Respondent to move the Honda because she was inside an office filing a damage claim. Also, it is not disputed that the sole reason that Guzman asked the Respondent to move the Honda was because Guzman had received a call from his boss who told him to bring out the forklift. Finally, it is not disputed that when Guzman asked the Respondent to move the Honda, the Respondent did not utter a discourtesy, he merely said, "No."

The Respondent offered the reasonable explanation that he had told Guzman "no" because [REDACTED] had alleged that J&S had damaged the rear bumper on her Honda and the Respondent did not want J&S to be able to claim that he had damaged the rear bumper when he moved the vehicle.

However, even if [REDACTED] had not alleged that J&S had damaged the rear bumper on her Honda, the Respondent had no personal duty to comply with Guzman's request that he get into the Honda and drive it because the Honda did not belong to the Respondent and the Assistant Department Advocate (the Advocate) offered no evidence that the Respondent used the Honda.

As a result, I reject the Advocate's argument that the Respondent's simple refusal to move the Honda rises to the level of actionable misconduct.

The Respondent is found Not Guilty of Specification No. 1.

Specification No. 2

It is charged that the Respondent, without identifying himself as a member of the Department, wrongfully lifted his shirt and displayed his firearm in his waistband to Guzman.

The Respondent admitted that after he told Guzman that he was not going to comply with Guzman's repeated demands that he move the Honda, but before he had identified himself as a police officer, Guzman called someone on his Nextel and told that person, "Somebody here refuses to move his vehicle and I think he might have a gun."

It makes no sense that Guzman would say "I think he might have a gun" unless Guzman had at least caught a glimpse of what appeared to be a firearm. Since the Respondent testified that he was wearing a sweater which completely covered his holstered Smith & Wesson firearm on his right hip, I can only conclude that the Respondent lifted the right side of the bottom of his sweater so that Guzman could see that he had firearm in his waistband, as Guzman testified he did.

In his trial testimony, the Respondent inadvertently betrayed that he had a motive to want to show Guzman that he was armed. Guzman was clearly annoying the Respondent by his repeated demands that he move the Honda. Also, the Respondent testified that just before Guzman spoke the words "he might have a gun" into his Nextel phone, Guzman had issued him an ultimatum: "Move the vehicle right now or else."

I find that the Respondent interpreted "or else" as a threat and that he responded to this remark by lifting up the right side of his sweater so that Guzman could see that he was armed and, thus, could not be intimidated and so that Guzman would stop demanding

that he move the Honda. The Respondent's action of displaying his firearm to Guzman merely because he was annoyed by what Guzman had said to him was improper.

The Respondent is found Guilty of Specification No. 2.

Specification No. 3

It is charged that the Respondent wrongfully failed to comply with a direction issued by Murray, an identified off-duty New York State Courts Sergeant who had his weapon drawn, that the Respondent put his hands on a nearby car.

The Respondent was fully aware at the point in time when he heard Guzman speak into his Nextel and say, "Somebody here refuses to move his vehicle and I think he might have a gun," that he had not told Guzman that he was a police officer. Thus, the Respondent knew that the person Guzman had called would not know that the "somebody" Guzman was referring to was a police officer. The Respondent was asked at this trial what he had perceived might occur after Guzman issued his alert that a man who was present on J&S' premises who had been giving him a hard time about moving a vehicle might have a gun. The Respondent answered that he had no idea what would happen. I find that the Respondent should have been able to envision that the person Guzman called would have concluded that Guzman was possibly in immediate danger of being shot and that an armed J&S employee would be responding to the scene prepared to use deadly physical force to protect Guzman, which is exactly what happened.

I credit Murray's testimony that with his firearm in his hand and with his New York State Court Officer's shield displayed, he told the Respondent, "Police, put your fucking hands on the car." The Respondent essentially corroborated Murray's testimony

by acknowledging that he saw Murray displaying a gold shield and a firearm as Murray demanded that he “get on the ground.”

The Respondent claimed that there was no cause for Murray to demand that he get on the ground or to display a firearm. However, the Respondent’s claims are based on his self-knowledge that he was an off duty police officer who was legally authorized to carry a firearm and that he posed no danger to Guzman.

Because of the Respondent’s failure to identify himself to Guzman as a police officer, when Murray arrived at the scene, Murray was completely unaware that the Respondent was a fellow law enforcement officer. Thus, based on what he knew at the time, Murray’s police challenge and his display of his firearm were not unreasonable under the circumstances.

It was the Respondent who acted unreasonably during this interaction. The Respondent admitted that even though Murray displayed a gold shield, he decided that he could ignore anything Murray told him to do and simply walk away from Murray merely because he could see that Murray’s shield was not a New York City Police Department shield. The Respondent did not assert that he even attempted to find out what kind of shield Murray was displaying.

The Respondent knew that he had not identified himself as a police officer to anyone at J&S at the time Murray issued his challenge. Thus, the Respondent had no right to refuse to comply with Murray’s direction at that point in time.

The Respondent is found Guilty of Specification No. 3.

Specification No. 4

It is charged that the Respondent, having been involved in an off-duty, unusual police incident, failed to remain at the scene and failed to request that the patrol supervisor precinct of occurrence respond to the scene.

It is clear that the Respondent's own description of Murray's armed confrontation of him put the Respondent in the position, albeit involuntary, of having been involved in an off-duty, unusual police incident. As a result, the Respondent was required to request that the patrol supervisor precinct of occurrence respond to the scene and he admitted that he did not do so. The Respondent denied that he had failed to remain at the scene but I credit Esteves' testimony that the Respondent got into a car that was on the street and drove away because Esteves candidly acknowledged that after [REDACTED] made a cell phone call, the Respondent returned less than two minutes later.

The Respondent is found Guilty of Specification No. 4.

Specification No. 5

It is charged that the Respondent engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that, having been involved in an off duty unusual police occurrence, he impeded the investigation of this occurrence by refusing to tell responding Police Officer Danclar what had transpired; by telling Danclar to "mark the job 90-X;" and by stating, "Do your job. I guess there's going to be a war between the 50 and the 42."

The Respondent denied that he had he impeded the investigation of this occurrence by refusing to tell responding Police Officer Danclar what had transpired.

The Respondent asserted that it was Danclar who did not want to hear what the Respondent had to say. I credit Danclar's version of their conversation because it is more consistent with the fact that the Respondent requested that Danclar make a radio transmission reporting a final disposition of "90 X-ray." The Respondent admitted that he had asked Danclar to reported a final disposition of "90 X-ray," which means unfounded.²

The Respondent also admitted that when Danclar refused to report a final disposition of unfounded, he told him "don't make this a 50 (Precinct versus) 42 (Precinct) issue." The Respondent explained that by this comment he meant to convey to Danclar the message that in the future "if the 42 (Precinct) needs a favor from the 50 (Precinct), I guess it would be a problem" in that "we wouldn't directly help them out" in situations such as "if (uniformed MOS assigned to) the 42 (Precinct) come to the 50 (Precinct) and ask (uniformed MOS assigned to) the 50 (Precinct) for paperwork, we would tell them we don't have any paperwork, or if we're working like CRV, if they need us to cover them for lunch, we tell them we can't do it."

The Respondent is found Guilty of Specification No. 5.

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 N.Y. 2d 222 (1974). The Respondent was appointed to the Department on July 1, 2003. Information from his

² Final Dispositions: 10-90X Unfounded, as cited in Radio Code Signals Insert (PD 112-090).

personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Respondent has been found Guilty of wrongfully lifting his shirt and displaying the firearm in his waistband to a civilian when he had not identified himself to the civilian as a member of the Department; of wrongfully failing to comply with a direction that he put his hands on a car which was issued by an off-duty New York State Courts Sergeant who had his weapon drawn; of failing to remain at the scene of an unusual police incident and failing to request that the patrol supervisor precinct of occurrence respond to the scene; and of impeding a 42 Precinct police officer's investigation of this incident by refusing to tell the officer what had transpired; by telling the officer to "mark the job 90 X-ray;" and by stating, "I guess there's going to be a war between the 50 and the 42."

The Respondent demonstrated an arrogant attitude and a disturbing lack of judgment in the manner in which he conducted himself throughout this incident. He tried to intimidate a garage mechanic who was annoying him by displaying his firearm; he created a potentially dangerous situation when an armed coworker responded to the mechanic's call for assistance by not identifying himself as a police officer and by not complying with Murray's order to put his hands on a car, which resulted in a call to 911; he failed to remain at the scene and he failed to request that the patrol supervisor precinct of occurrence respond to the scene of this unusual police incident; he refused to cooperate with an officer assigned to the 42 Precinct who had responded to the 911 call and he told this officer to make an inaccurate radio transmission by reporting a final disposition of unfounded.

Finally, when the officer properly refused to transmit a final disposition of unfounded, the Respondent admitted that he told the officer “don’t make this a 50 (Precinct versus) 42 (Precinct) issue,” by which the Respondent meant that in the future “if the 42 (Precinct) needs a favor from the 50 (Precinct), I guess it would be a problem” in that “we wouldn’t directly help them out” in situations such as “if (uniformed MOS assigned to) the 42 (Precinct) come to the 50 (Precinct) and ask (uniformed MOS assigned to) the 50 (Precinct) for paperwork, we would tell them we don’t have any paperwork, or if we’re working like CRV, if they need us to cover them for lunch, we tell them we can’t do it” in retaliation for the 42 Precinct officer’s refusal to report a disposition of unfounded.

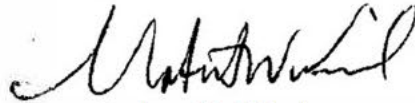
The Assistant Department Advocate recommended as a penalty that the Respondent forfeit the 30 days he served on pretrial suspension, that he also forfeit “at least an additional ten vacation days,” and that he be required to serve one year on dismissal probation. Based on the totality of the Respondent’s misconduct, a period on dismissal probation is warranted.

It is, therefore, recommended that the Respondent be DISMISSED from the New York City Police Department, but that the penalty of dismissal be held in abeyance for a period of one year pursuant to section 14-115 (d) of the Administrative Code, during which time he remains on the force at the Police Commissioner’s discretion and may be terminated at any time without further proceedings.

As a result of this incident, the Respondent was suspended from October 8, 2008 until November 7, 2008, on which date he was placed on modified assignment. It is also recommended that the Respondent be required to forfeit the 30 days he served on

suspension. It is further recommended that the Respondent be required to forfeit ten vacation days for a total forfeiture of 40 days.

Respectfully submitted,



Robert W. Vinal
Assistant Deputy Commissioner – Trials

APPROVED
MAY 18 2010

RAYMOND W. KELLY
POLICE COMMISSIONER

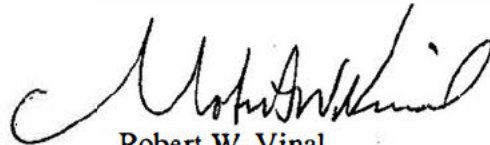
POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner - Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER TYRONE RIGGAN
TAX REGISTRY NO. 933252
DISCIPLINARY CASE NO. 84743/08

The Respondent received an overall rating of 4.0 on his 2009 annual performance evaluation, 3.5 on his 2008 annual evaluation and 3.5 on his 2007 evaluation. He has no medals. [REDACTED] He has no prior formal disciplinary record.

On May 2, 2005, the Respondent was placed on entry level probation monitoring. This period of probation expired on June 30, 2005.

For your consideration.



Robert W. Vinal
Assistant Deputy Commissioner – Trials